SEP 30 2016

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

COMPANION PROPERTY AND CASUALTY INSURANCE COMPANY,	§	
Plaintiff,	§	
v.	§	**No. 3:16-MC-75-D**
CHARLES DAVID WOOD, JR., et al.,	§	
Defendants.	§	

ORDER

On August 12, 2016, the District Court referred for determination Non-Party Highpoint Administrative Services, Inc.'s ("Highpoint") Motion to Quash, Motion for Protective Order, [and] Request for Attorneys' Fees and Sanctions [ECF No. 1] ("Motion to Quash"). *See* Order of Reference, ECF No. 2. Subsequent to that referral, Highpoint filed its Amended Motion to Quash, Motion for Protective Order, [and] Request for Attorneys' Fees and Sanctions [ECF No. 3] which was referred for determination on August 16, 2016 ("Amended Motion to Quash"). *See* Order of Reference, ECF No. 5. Therefore, the original Motion to Quash [ECF No. 1] is **DENIED as moot**.

In the Amended Motion to Quash, Highpoint states that Companion Property and Casualty Insurance Company ("Companion") issued a subpoena and notice of deposition on June 28, 2016 seeking Rule 30(b)(6) corporate representative testimony on 23 subjects for July 21, 2016, which was subsequently re-set for September 7, 2016. Am. Mot. 7-8, ECF No. 3. Highpoint contends that, while the subpoena does not formally seek production of documents, almost every subject matter in the deposition notice references a document or a set of documents that it would have to locate, review, and analyze. Am. Mot. 8, ECF No. 3. Highpoint argues that all or a majority of the subjects in the notice can be obtained from one of the parties to the underlying lawsuit without burdening a non-party. Am. Mot. 8, ECF No. 3.

Companion argues in its response that Highpoint possesses highly relevant information regarding the claims and defenses in the underlying litigation and has been heavily involved in that case from the beginning. Resp. 1, ECF No. 8. Companion also contends that Highpoint's employees have provided all sworn testimony on behalf of the Wood defendants to date, with one exception. Resp. 1, ECF No. 8. Companion further contend that this is not a surprise, given that Mr. Wood formed Highpoint and is its registered agent and the company appears to be an inter-related spin-off of the named Wood defendant entities in the underlying action, each of which is wholly owned and controlled by Mr. Wood. Resp. 1, ECF No. 8. Companion argues that, despite its heaving participation in the underlying action, Highpoint refuses to appear for a routine Rule 30(b)(6) deposition through which it seeks to learn basic information regarding Highpoint's involvement "in a tangled web of fraudulent conduct by the Wood Defendants that has caused tens of millions of dollars in damages to Companion." Resp. 1, ECF No. 8.

Highpoint argues in its reply that Companion's subpoena seeks cumulative and duplicative information that is available from the defendants in the underlying lawsuit. Reply, 2, ECF No. 15. Highpoint also argues that the topics are overly broad, unduly burdensome, and irrelevant. Reply, 4, ECF No. 15. Furthermore, Highpoint argues that the burden imposed by the subpoena is greatly outweighed by any alleged benefits. Reply, 4, ECF No. 15.

"When a subpoena is issued as a discovery device, relevance for purposes of the undue burden test is measured according to the standard of [Federal Rule of Civil Procedure] 26(b)(1)." *Gaedeke Holdings VII, Ltd. v. Mills*, No. 3:15-MC-36-D (BN), 2015 WL 3539658, at *3 (N.D. Tex. June 5, 2015) (citing *Williams v. City of Dallas*, 178 F.R.D. 103, 110 (N.D. Tex. 1998)). "Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense . . . . Information within this scope of discovery need not be admissible in evidence to be discoverable." FED. R. CIV. P. 26(b)(1). "[T]he threshold for relevance in discovery is low." *Mfrs. Collection Co. v. Precision Airmotive, LLC*, No. 3:12-CV-853-L, 2014 WL 2095367, at *1 (N.D. Tex. May 20, 2014) (citation omitted). Furthermore, "[t]he moving party has the burden of proof to demonstrate that compliance with the subpoena would be unreasonable and oppressive." *Wiwa v. Royal Dutch Petroleum Co.*, 392 F.3d 812, 818 (5th Cir. 2004) (internal quotation marks and citation omitted); *see also Heller v. City of Dallas*, 303 F.R.D. 466, 490 (N.D. Tex. 2014) ("A party resisting discovery must show specifically how each . . . request is overly broad, unduly burdensome, or oppressive. . . . This requires the party resisting discovery to show how the requested discovery was overly broad, unduly burdensome, or oppressive by submitting affidavits or offering evidence revealing the nature of the burden. . . . Failing to do so, as a general matter, makes such an unsupported objection nothing more than unsustainable boilerplate." (citing *Merrill v. Waffle House*, Inc., 227 F.R.D. 475, 477 (N.D. Tex. 2005); *S.E.C. v. Brady*, 238 F.R.D. 429, 437-38 (N.D. Tex. 2006); *McLeod, Alexander, Powel & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1484-86 (5th Cir. 1990))).

Upon consideration of the foregoing, the Court finds that the subpoena seeks relevant information and Highpoint failed to demonstrate that it is subject to undue burden and that the information sought is cumulative and duplicative. Therefore, the Amended Motion to Quash [ECF No. 3] is **DENIED**.

SO ORDERED, this 30 day of September, 2016.

PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE